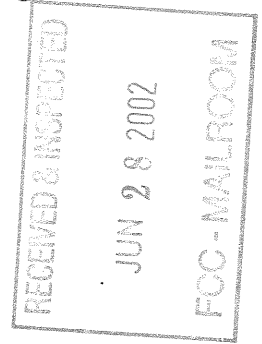


**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

JUN 25 2002

**IN REPLY REFER TO:
1800B3-MAT**



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In Re: **NEW(FM), Williams, CA**
Educational Media Foundation
File No. BPED-19970904MA
Facility ID No. 88177

NEW(FM), Williams, CA
Spring Creek Broadcasting Company
File No. BPH-19970904MG
Facility ID No. 88209

NEW(FM), Williams, CA
Phoenix Broadcasting FM Partnership
(formerly Phoenix Broadcasting, Inc.)
File No. BPH-19970905MF
Facility ID No. 88261

Joint Request for Approval of Settlement
Agreement
MX Group 970925

Dear Counsel:

This is in reference to the above-captioned mutually exclusive construction permit applications for a new FM station (Channel 256) in Williams, California and the Joint Request for Approval of Settlement Agreement ("Joint Request") filed on November 30, 2001 by Educational Media Foundation ("EMF"), Spring Creek Broadcasting Company ("Spring Creek") and Phoenix Broadcasting FM Partnership ("Phoenix").¹ On February 28, 2002 EMF amended its application to, *inter alia*, request a main studio waiver.

Pursuant to the Joint Request, the Spring Creek and Phoenix applications would be dismissed and the EMF application would be granted. Under the terms of the Joint Request, EMF will pay Spring Creek and Phoenix \$50,000 and \$125,000, respectively, to dismiss their applications.

After consideration of the settlement agreements, we determine that the Joint Request complies with Commission policy. Approval of the agreements and grant of the EMF application would conserve Commission and applicant resources. Further, it appears that none of the parties filed their applications in order to reach or carry out a settlement. In light of the Commission's directive to the Mass Media Bureau to waive the provisions of 47 C.F.R. § 73.3525(a)(3) and accept universal settlements involving payments to applicants in excess of their reasonable and prudent expenses, neither Spring Creek nor Phoenix has or will receive consideration for dismissing their respective applications beyond that allowed. *See* Public Notice, *Window Opened to Permit Settlements for Closed Groups of Mutually Exclusive Broadcast Applications*, DA 01-2242 (released September 27, 2001). Thus, the settlement agreements conform to 47 U.S.C. § 311(c)(3) and 47 C.F.R. § 73.3525. Since all of the applicants propose to serve the same community, no Section 307(b) questions have been presented and republication is not required under 47 C.F.R. § 73.3525(b). Furthermore, we find that EMF is fully qualified and that a grant of the application would serve the public interest by expediting new FM service to Williams, California.

Main Studio Waiver Request. EMF has requested a waiver of the main studio requirement, 47 C.F.R. § 73.1125, in order to operate the Williams, California station as a satellite² of its commonly-owned NCE station KLRD(FM), Yucaipa, California. The proposed station will be part of a network of radio broadcast stations operated by EMF known as the "Air 1 Radio Network." For the reasons set forth below, we will waive Section 73.1125 and grant EMF's application for a construction permit.

¹ EMF is seeking to operate the proposed facility as a new noncommercial educational FM facility and submitted an FCC Form 340 application. Spring Creek and Phoenix each seek to operate the channel as a new commercial FM facility and submitted FCC Form 301 applications.

² A "satellite" station meets all of the Commission's technical rules; however, it originates no programming and instead rebroadcasts the parent station's programming. *See* Amendment of Multiple Ownership Rules, *Memorandum Opinion and Order*, 3 RR 2d 1554, 1562 (1964).

Pursuant to Section 73.1125(a), a main studio must be located either (1) within a station's community of license; (2) within the principal community contour of any other broadcast station licensed to its community; or (3) within 25 miles of the center of the community of license. *See* Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations, *Report and Order*, 13 FCC Rcd 15691 (1998); *recon. granted in part*, 14 FCC Rcd 11113 (1999) ("*Reconsideration Order*"). However, under Section 73.1125(b)(2), the Commission will waive this requirement where good cause exists to do so and where the proposed studio location "would be consistent with the operation of the station in the public interest." Each waiver request by an NCE station seeking to operate as a satellite of another NCE station is considered on a case-by-case basis. The Commission has recognized the benefits of centralized operations for NCE stations, given their limited funding, and thus found good cause exists to waive the main studio location requirement where satellite operations are proposed. *Id.* A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 public interest standard. *Id.*

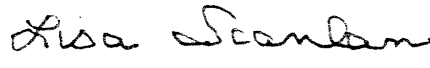
EMF's request is based on the economies of scale which would be realized by a grant of its waiver. We agree and conclude that there is good cause to waive 47 C.F.R. § 73.1125(a) in these circumstances. EMF proposes to operate the Williams, California station as a satellite of KLRD(FM), Yucaipa, California, approximately 452 miles from Williams, California. Where there is a great distance between parent and satellite stations, as here, we are particularly concerned that the licensee takes adequate measures to maintain its awareness of the satellite community's needs and interests. To that end, EMF has pledged to: (1) maintain an auxiliary studio either in Williams, at a location within the principal community contour of an AM, FM or TV station licensed to Williams, or within twenty-five miles from the referenced coordinates of the center of Williams; (2) engage the services of a local Williams public affairs representative to conduct regular ascertainment surveys of local community leaders and other residents to determine the concerns, problems, and needs of Williams' listeners, which will be covered in Air 1's news and public affairs programming; (3) have a local representative, who may be a volunteer, available in the community of Williams, California who will work with EMF's Regional Managers³ and will, at least on a quarterly basis, conduct interviews and surveys in an effort to ascertain the interests, concerns and needs of the Williams' listeners and serve as a liaison between the residents of Williams and EMF's programming personnel, and (4) maintain a toll-free telephone number for the residents of Williams.

³ EMF has Regional Managers who oversee the stations that have been granted waivers of the main studio rule. The Regional Managers typically oversee a number of stations within a defined geographic area.

Under these circumstances, we are persuaded that EMF will meet its local service obligations and thus, grant of the requested waiver is consistent with the public interest. We remind EMF, however, of the requirement that it maintain a public file for the Williams, California station at the main studio of the station at which its programming is originated, and it must provide the accommodation to listeners or residents as required under the amended rules. *See Reconsideration Order*, 14 FCC Rcd at 11129, 129, ¶45. Thus, in the instant case, EMF must maintain the public file at the main studio of parent station KLRD(FM), Yucaipa, California.

Accordingly, pursuant to 47 C.F.R. § 0.283, the Joint Request for Approval of Settlement Agreement and the request for waiver of 47 C.F.R. § 73.1125 ARE GRANTED. The applications filed by Spring Creek Broadcasting Company (File No. BPH-19970904MG) and Phoenix Broadcasting FM Partnership (File No. BPH-19970905MF) ARE HEREBY DISMISSED and the application filed by Educational Media Foundation (File No. BPED-19970904MA) IS HEREBY GRANTED. The construction permit authorization will follow under separate cover.

Sincerely,


for

Peter H. Doyle, Chief
Office of Broadcast License Policy
Audio Division
Media Bureau